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Rules, Regulations, Orders

TITLE 1—GENERAL PROVISIONS ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CODIFICATION REGULATIONS*

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* Sections 1.0 to 1.23 issued under the authority contained in Section 11 (d), 50 Stat. 304; 44 U. S. C., Sup. III, 311.

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1.0 Codification amendment to Federal Register Act. (a) On July 1, 1938, and on the same date of every fifth year thereafter, each agency of the Government shall have prepared and shall file with the Administrative Committee a complete codification of all documents which, in the opinion of the agency, have general applicability and legal effect and which have been issued or promulgated by such agency and are in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities on June 1, 1938. The Committee shall, within ninety days thereafter, report thereon to the President, who may authorize and direct the publication of such codification in special or

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supplemental editions of the Federal Register.

(b) There is hereby established a Codification Board, which shall consist of six members: The Director of the Division of the Federal Register, chairman ex officio; three attorneys of the Department of Justice, designated by the Attorney General; and two attorneys of the Division of the Federal Register, designated by the Archivist. The Board shall supervise and coordinate the form, style, arrangement, and indexing of the codifications of the various agencies.

(c) The codified documents of the several agencies published in the supplemental edition of the Federal Register pursuant to the provisions of subsection (a) hereof, as amended by documents subsequently filed with the Division, and published in the daily issues of the Federal Register, shall be prima facie evidence of the text of such documents and of the fact that they are in full force and effect on and after the date of publication thereof.

(d) The Administrative Committee shall prescribe, with the approval of the President, regulations for carrying out the provisions of this section.*#

1.01 *Resolution.* Whereas, the Administrative Committee agrees that the prompt, accurate, efficient, and adequate carrying out of the Act of Congress requires (1) an immediate and close liaison between the Codification Board and the several agencies, together with the prompt and energetic prosecution of the work by each agency; (2) the submission of completed units of the proposed codification of each agency from time to time, for criticism, suggestions, and fitting into the general code, subject, however to the final approval, amendment, and certification of each code by the

agency concerned as provided in the act and the regulations which follow herein; (3) the exertion of every effort to assure that each of the several Federal agencies will submit a creditable codification so that no agency will suffer by comparison of its codification with the codifications of other agencies or be subject to legal difficulties or practical embarrassments in its operations after the codification for the whole executive and administrative branch is published; and (4) the submission of a report on the whole completed code of executive and administrative rules and orders to the President in accurate, complete, and usable form, ready for printing, within the time limit prescribed in the Act of Congress;

Therefore, pursuant to the authority contained in Section 11 (d) of the Federal Register Act, as amended by the Act of June 19, 1937 (50 Stat. 304; 44 U. S. C., Sup. III, 311), the Administrative Committee of the Federal Register hereby prescribes, with the approval of the President, the following regulations to govern the preparation (including form, style, arrangement, and indexing) and submission of the codes required to be submitted thereunder.*

1.1 *Definitions.* As used herein, unless the context otherwise requires:

(a) *Act.* The term "act" means the Federal Register Act, approved July 26, 1935 (49 Stat. 500; 44 U. S. C., Sup. III, 301 et seq.) as amended by the Act of June 19, 1937 (50 Stat. 304; 44 U. S. C., Sup. III, 311).

(b) *Document.* "The term 'document' means any Presidential proclamation or Executive order, and any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by a Federal agency" (Sec. 4 of the act) and of "general applicability and legal effect" which is "in force and effect and relied upon by such agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities" (Sec. 11 (a) of the act).¹

(c) *Agency or Federal agency.* "The terms 'Federal agency' and 'agency' mean the President of the United States, or any executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States, but not the legislative or judicial branches of the Government" (Sec. 4 of the act).

(d) *Committee or Administrative Committee.* The terms "Committee" and "Administrative Committee" mean the Administrative Committee of the Federal Register established under Sec. 6 of the act.

(e) *Board and Chairman.* The term "Board" means the "Codification Board" established under section 11 of the act, and the term "Chairman" means the Chairman of the Codification Board.

¹ See also Sec. 1.5, *infra*.

1.2 *Nature of codification.*² "Codification" as ordinarily used in the United States and as intended in the act and these regulations means the collection of all documents and their systematic organization and arrangement, with all obsolete and repealed matter eliminated and all new matter and amendments incorporated in their appropriate sections or paragraphs, so that the whole may be republished as one complete document.*#

1.3 *Revisions.* The complete revision or restatement of documents, either in their language or substance, is not necessarily contemplated, although agencies are free to do so provided such work may be completed and the revision made effective in a reasonable time. On the other hand, portions of documents consisting of extensive quotation of statutory provisions, with or without quotation marks, are to be deleted whenever such deletion does not affect the meaning of the remaining portions of the document.*#

1.4 *Completeness.* Main emphasis should be laid upon completeness and accuracy of the Codification rather than the form of the source documents, since the act requires "complete" codifications of "all" documents (Sec. 11 (a) of the act). The omission of material which should be included will embarrass the agency in its future work, impair the effectiveness of the codification, and lessen its practical value both to the agency and to the public.*#

1.5 *Present general applicability and legal effect.*³ Each agency should keep constantly in mind the fact that the codifications are to include only documents which are (1) currently "in force and effect and relied upon by the agency

² "The word 'codification' is not intended to lay down rigid requirements. It means an orderly presentation of 'documents' brought up to date in the form best adapted to usefulness as tested by the experience of the agency. Thus, if there have been a series of amendments to a regulation, the minimum requirement would be a rewriting of such regulation, eliminating from its text obsolete provisions, and inserting therein new matter. If a regulation is already in such form, the agency may in its discretion deem further codification unnecessary, even though the inclusion of various regulations in that form may involve some repetition of provisions common to two or more of them.

"If a regulation has never been set forth by the agency in an orderly and easily available form, the amendment would require that this be done. In many cases an adequate codification would also require the systematizing of regulatory material according to subject matter." House Report 478, 75 Cong. 1 Sess.

³ "As the President has for purposes of the daily issues determined the classes of documents having general applicability and legal effect, the several agencies would in general be guided by that determination in selecting the kinds of material for inclusion in the codification." House Report 478, 75 Cong. 1 Sess. See also Sec. IIA (d) of the latest revision of the Federal Register Regulations, prescribed by the Administrative Committee of the Federal Register, and approved by the President May 26, 1938 (3 F. R. 1209 DI).

as authority for, or invoked or used by it in the discharge of, any of its functions or activities," and also (2) "of general applicability and legal effect." The phrase "present general applicability and legal effect," relates to all documents (1) prescribing a penalty (Sec. 5 (a) (3) of the act), conferring rights, privileges, authority, or immunities, or imposing obligations, and (2) currently relevant or applicable to the general public, the members of a class, or the persons of a locality, as distinguished from named individuals or organizations. In short, such documents must be of "public" as distinguished from "private" import, as illustrated generally by the classification of laws in the Statutes-at-Large into "Public Laws" and "Private Laws", and by the regulations approved by the President respecting the type of matter to be published in the Federal Register.

More particularly, the following types of documents require special treatment:

(a) *Internal administration.* Those documents or parts of documents "effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof" should not be included (Cf. Sec. 5 (a) (1) of the act); but documents or portions thereof prescribing intra-departmental procedure which the public should know or follow in dealing with an agency should be included.

(b) *Administrative decisions.* Codifications should not include the decisions of executive or administrative agencies, made upon hearing or otherwise and applicable only to named parties, unless such decisions are also promulgated as formal and general rules, or unless they establish rules or principles which affect the public or a class thereof.

(c) *Repealed or superseded matter.*¹ No obsolete, repealed, or superseded matter should be included even though it might become relevant in cases arising under past states of fact. The term "in force or effect and relied upon by the agency as authority for, or invoked by it in the discharge of, any of its functions or activities" refers to present activities under the latest statutes or regulations on the same subject matter. Thus, regulations under old tax statutes should be excluded, except as they are applicable to current taxation.

(d) *Documents referring to public lands.* Agencies having masses of documents referring to public lands, should consult with representatives of the Board before attempting a codification of such documents, in order to determine how they shall be dealt with in the preparation of the codification.*#

¹ "Regulations, under acts of Congress which have been repealed or superseded, for instance, would presumably be found no longer to have 'general applicability', even though a few cases arising under them still remain open." House Report 478, 75 Cong. 1 Sess.

AUTHORITY

1.6 Other information to be included.

At the end of each section there shall be noted the statutory authority for its issuance and the documentary source of its text.

(a) *Citation of authority.* The authority (statute, order, proclamation, or otherwise) for the issuance of each document which is embodied in a section of the code shall be cited in parentheses at the end of each section or paragraph. This citation shall include the specific authorization, if any, for the issuance of regulations and, whenever possible, the statutory provisions interpreted or applied by the section. Citations, as nearly as possible, shall be in the following form:

Statutes. "(Sec. 6, 49 Stat. 501; 44 U. S. C. 306)" Where statutes are cited, the United States Code citations shall be given as well as the Statutes-at-Large citations. Only the section number and page or pages of the Statutes-at-Large on which the authority for the regulation appears should be given and not the first page of the statute or the chapter; and in citing the United States Code, the 1934 edition should be used and only the title number and the section number (and subsection number or letter, if any) should be given, separated by "U. S. C."

United States Code Supplements. A more specific citation to the Supplements or to the Code and the Supplements may be made in the form indicated by the following illustrations: (1) Where reference is to be made to a specific Supplement: 7 U. S. C., Sup. II, 502. (2) Where reference is to be made to the United States Code, 1934 ed., and to a specific Supplement: 7 U. S. C., 502 and Sup. II.

In any case where an agency wishes to make citations both to the specific authority under which the section is issued and to the statutory provisions interpreted or applied by the section, the following form of citation may be used: (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C., Sup. III, 228a, 228j). Here Sec. 10, 50 Stat. 314; 45 U. S. C., Sup. III, 228j is the specific authority for the issuance of the regulations contained in the section, and Sec. 1, 50 Stat. 307; 45 U. S. C., Sup. III, 228a is the statutory provision interpreted or applied. In the same situation, should the agency desire to use the short method of citation for the authority for issuance prescribed by Sec. 1.6 (b) of these regulations, it may do so by using an appropriate footnote explaining that the asterisk (*) refers to the authority for issuance. The citation would then be as follows: (*; Sec. 1, 50 Stat. 307; 45 U. S. C., Sup. III, 228a). The asterisk here refers to Sec. 10, 50 Stat. 314; 45 U. S. C., Sup. III, 228j.

(b) *Short method of citation of authority for issuance applicable when all, or a majority of, a large number of sections in sequence have the same citation.*

(1) Place an asterisk (*) at the end of each section to which the citation is pertinent. (2) Include an appropriate footnote, preceded by an asterisk, on the sheet carrying the title of the page, part, or other subdivision in which the sections, or majority of the sections, in sequence having the same citations appear. This footnote shall include a statement of: (a) the statutory authority; and (b) the first and last numbers of the sections in sequence. Such footnotes for example, where all the sections in sequence have the same citation, may be in the following form:

* §§ — to — issued under the authority contained in Sec. 23, 42 Stat. 708; 40 U. S. C. 218.

Or in a case where some sections in the sequence have a different citation such sections shall be designated and the footnote may be in the following form:

* §§ — to —, except §§ —, —, —, are issued under the authority contained in Sec. 23, 42 Stat. 708; 40 U. S. C. 218.

(c) *Short method of citation of statutes interpreted.* Where the arrangement of materials or the keying of section numbers automatically indicates the statutory provisions interpreted, a short method of citing the statute interpreted may be employed.

The following methods may be used in cases where the agency determines that short citations are desirable: (1) In cases where the text of a statute is included in the codification and the regulatory provisions are distributed so as to indicate their relations to each statutory provision, no further citation of the statute interpreted will be necessary. Such procedure, however, should be explained in a footnote placed on the sheet carrying the headnote of the subdivision in which this procedure is followed. The footnote should designate the numbers of the sections to which it applies and may be in the following form: "§§ — to — follow the statutory provisions to which they respectively refer." (2) In cases where the numbers of the code sections are keyed to the numbers of the sections in the statutes interpreted, a footnote to this effect should be placed on the sheet carrying the headnote of the subdivision in which this procedure is followed. This footnote may be in the following form: "In §§ — to —, the numbers to the right of the decimal point are keyed to numbers of §§ — to —, 49 Stat. 1652, 26 U. S. C. — to —."

Wherever it is appropriate and convenient, the above footnotes may be combined with the footnotes suggested for short citation of authority or source.

SOURCE

(d) *Citation of source.* At the end of each section or paragraph, (1) the official designation or type of the original document (Executive order, Administrative order, Memorandum, Bulletin, etc.), of which the text of the section or paragraph

originally formed a part and from which it is taken, together with (2) the date of its adoption and (3) the title of the officer, board or commission issuing the same, unless the issuing agency is the same as the agency named in the title of the codification, and (4) similar information with respect to all amendments thereto, shall be cited in brackets immediately following the citations of authority on which the documents are based, in the following form:

Executive orders (President). [E. O. 7298, Feb. 18, 1936.]

Regulations (Veterans' Administration and Bureau of Internal Revenue). [Reg. R-1001 (K), V. Ad., Oct. 14, 1937.] [Reg. 100, Art. 603, Bu. Int. Rev., Oct. 12, 1936.]

Bulletins (Agricultural Adjustment Administration). [SR-Bull.-1, A. A. A., Mar. 20, 1936.]

Orders (Federal Communications Commission). [Order 17-A, F. C. C., Sept. 29, 1937.]

Rules (Securities and Exchange Commission). [Rule 3DS, S. E. C., Oct. 4, 1937.]

Circulars (Treasury). [Circ. 570, Sec. Treas., Oct. 11, 1937.]

(e) *Short method of citation of source*, applicable where a large number of sections in sequence have the same citation of source. Where section numbers are keyed to section numbers in original source document: (1) Place a number sign (#) at the end of each section or paragraph to which the citation is pertinent, (2) Include an appropriate footnote, preceded by the number sign (#), on the sheet carrying the headnote of the subdivision to which the footnote is applicable. This footnote should indicate (a) the method by which sections in the codification are keyed to the original source, and (b) the sections covered by the footnote. Thus, for example, such footnote may be in the following form: "# In §§ — to —, the numbers to the right of the decimal point correspond with the respective section numbers in Bulletin 10, Sept. 7, 1936."

(f) *Where section numbers are not keyed to section numbers in original source document*. (1) Place the original section, article, or rule number and a number sign in brackets at the end of each section or paragraph, e. g., [art. 171, #] to which the citation is pertinent. (2) Include an appropriate footnote, preceded by the number sign (#), on the sheet carrying the headnote of the subdivision to which the footnote is applicable. This footnote should indicate (a) the common original source, and (b) the sections covered by the footnote. Thus, for example, such footnote may be in the following form: "# the source of §§ — to — is Bull. 10, Sept. 7, 1936." These short methods of citation may be employed in cases where the great proportion of a large number of sections in sequence have the same citation. When employing these methods, care should be taken, however, to give a

specific citation in the form prescribed in the Codification Regulations for any sections in the sequence to which the short citation is inapplicable. In those cases where the short citation is inapplicable for certain sections in sequence, a footnote such as the following may be used: "The source of §§ — to — with the exceptions of §§ —, —, — is Bull. 10, Sept. 7, 1936."

(g) *Explanatory material or references*. Any other material which the agency deems necessary by way of explanation or reference may be submitted in the form of footnotes.

(h) *Decisions and interpretations*. Decisions of executive or administrative agencies which construe or apply documents, but which do not amend the text of the documents, and judicial opinions which refer to documents should not be cited except in unusual circumstances and then only in explanatory footnotes.* #

FORM

1.7 *Physical format*. The partial and final codifications submitted shall conform to the following specifications:

(a) *Number of copies*. Three copies shall be submitted.

(b) *Size of paper*. Only letter size paper (approximately 8½ x 10 or 11 inches) shall be used, and the material shall be placed thereon parallel with the long side of the sheet so that the individual sheets may be conveniently handled and filed, and a maximum of margins left for notes, corrections, and insertions.

(c) *Contents and numbering of pages*. Not more than one section shall be placed on a page, and the pages shall be numbered consecutively in Arabic numbers.

(d) *Typing*. All matter shall be legibly typewritten, mimeographed, or printed, except that material already in such form may be cut and pasted on pages of the prescribed size in order to save time and eliminate typing and the errors often incident thereto, and in such cases corrections may be made in ink or by typewriter in the margins or by interlineation and striking out.

(e) *Forms—Illustrations and diagrams*. Ordinarily, forms should not be incorporated in the codifications. Illustrations should not be incorporated in the codifications as a part of a document unless their publication is essential in the public interest. In cases where an illustration was incorporated as a part of a document which has been issued and amended and the publication of the illustration is essential, a new illustration including the necessary changes to conform to the amendments shall be prepared and forwarded with the codified document. Illustrations accompanying codifications, when published, shall be reduced to page size and be line-cuts only. Copy for illustrations should be in the form of tracings on linen and shall be securely attached to the part of the code which incorporates such illustration.* #

ARRANGEMENT

1.8 *System of headings and numbers*. Titles will be the major divisions of the Code of Federal Regulations. Subtitles and chapters will be the major divisions of titles. Parts will be the divisions of subtitles and chapters. Sections will be the normal units within parts. Paragraphs, subparagraphs, etc., will be lesser units within sections.

(a) *Assignment of titles*. There will be a subject matter arrangement into titles of the materials submitted by the agencies.

(b) *Assignment of chapters*. Each independent agency or major subdivision of a department will be assigned a Chapter in the Title indicated by the materials codified by the agency or subdivision.

(1) In special cases a Chapter may be assigned to a subdivision of an independent agency or a subordinate subdivision of a department, in instances where a specific regulatory function is vested in the subdivision and the logical classification of the subject matter so requires.

(2) In cases where a Title contains more than one Chapter subject to the exceptions in (b) (3) and (b) (4), of this section, the first Chapter shall include Parts 1-199, and each succeeding chapter respectively a block of one hundred part numbers, viz.—Chapter I shall include Parts 1-199; Chapter II, Parts 200-299, etc.

(3) In the titles assigned to the several departments, the title may be divided into subtitles, of which Parts 1-19 shall be allocated to a Subtitle A to provide for documents issued by the departmental head and not included in the submission of the subdivision of the department. Subtitle B shall be subdivided into chapters, of which Chapter I shall comprise Parts 20-199; Chapter II, Parts 200-299, etc., subject to the exceptions in (4).

(4) In case the parts assigned to a chapter under the rule in (2) are insufficient, one or more additional blocks of one hundred part numbers in sections, as are required, may be included in the chapter.

(5) The use of subtitles or subparts is to be avoided, unless deemed necessary by the agency and the board member concerned or unless the materials included are sufficiently extensive to justify the grouping of parts in subchapters.* #

1.9 *Numbering system*. The following general rules are to be followed (with such exceptions as may be appropriate) in the numbering of titles, chapters, etc.

(a) *Numbering of titles, chapters, etc.* Titles are to be numbered consecutively in Arabic as prescribed by the Board, subtitles consecutively in capitals, chapters consecutively throughout the title in Roman, and subchapters consecutively throughout the chapter in capitals.

(b) *Numbering of parts.* Parts are to be numbered serially in Arabic, leaving sufficient unassigned numbers to provide for expansion. Normally, subparts and similar subdivision of parts are not to be numbered or lettered, except as indicated in (d) (2) of this section. In exceptional cases, with the Board's approval, subparts may be numbered, as may be appropriate, either in Roman capital letters or by a decimal method such as described in (d) (2) of this section.

(c) *Numbering of sections.* The numbers assigned to individual sections shall include (1) the number of the part in which the section is placed, followed by a decimal point, and (2) a serial number following the decimal point, assigned to the section within the part. Such serial number may consist of one or more digits in Arabic as may be required.

Thus the section number to be given to the 21st Section in Part 25 would be 25.21.

In cases where it is desired, subject to the approval of the Codification Board, the serial numbers following the decimal point, assigned to individual sections in (c) of this section, may correspond with the present numbering of sections in the document forming the original source of the codification.

Thus, assuming that the part number 100 were to be assigned to Regulations 94 of the Bureau of Internal Revenue, Art. 113 (a) (8)-1 of Regulations 94, would have the following number: 110.113 (a) (8)-1.

(d) *Alternative method of section numbering.* The internal structure of sections may be indicated by the following alternative method of numbering:

(1) First method: Sections may be subdivided into paragraphs designated by lower case letters in parentheses, and subparagraphs into subdivisions, designated by lower case Roman numerals in parentheses, thus

Terminology	Numbering symbol
Paragraph.....	(a)
Subparagraph.....	(2)
Subdivision.....	(iii)

(2) Second or decimal method: In this system sections may be designated by the first, first two, or more digits to the right of the decimal point in the section number, depending upon the structure of the part. Such sections may be subdivided into paragraphs, subparagraphs and subdivisions, which may be designated by adding one, two, or three digits to the section number, as the case may be. Thus, in a part requiring two digits to the right of the decimal point for section numbers, the break-down would be as follows:

Terminology	Numbering symbol
Part.....	1
Subpart.....	1.1
Section.....	1.12
Paragraph.....	1.125
Subparagraph.....	1.1253
Subdivision.....	1.12539

(3) In general, the numbering within sections should conform to one of the systems indicated in (1) and (2) above, and the method adopted by the agency should be uniform throughout each chapter. In special cases, to be approved by the Board, the method employed in an individual part may be varied from that generally adopted for the chapter, or where there is a substantial need to retain the identity of a numbering system because of the wide-spread use of the document codified, adequate alternative methods of numbering within sections may be employed.

(4) The numbering system employed to designate sections or subdivisions thereof shall be uniformly applied throughout the chapter or part affected.* #

1.10 *Tables of contents—indexing.* Each submission of the codification should be accompanied by a table of contents, giving the titles, chapters, parts, sections, and paragraphs, together with their numbers, headings, and headnotes. Agencies are not required to prepare indexes but they are invited to submit indexes to aid the Board in its indexing of the codifications.

(a) *Tables of contents to be included.* The tables of contents shall be included in copy for all:

Titles including two or more chapters or subtitles.

Titles without chapters but including two or more parts.

Departmental subtitles [Cf. 1.8 (b) (3)] including two or more parts.

Chapters including two or more parts.

Parts including two or more sections.

(b) *Tables of contents not necessary to be included.* Except upon special instructions by the Board, no tables of contents shall be included in copy for:

Titles comprising a single chapter.

Titles without chapters comprising a single part.

Departmental subtitles comprising a single part.

Non-departmental subtitles [Cf. 1.8 (b) (3)].

Chapters comprising a single part.

Subchapters.

Parts comprising a single section.

(c) *Tables of contents explained.* In the application of this provision, the following examples may be followed:

(1) Tables of contents for titles including two or more chapters shall show the numbers and captions of all chapters included in title, the numbers of the first part included in each chapter, and all subtitles, in the following form:

TITLE 43—PUBLIC LANDS: INTERIOR		
Chapter		Part
Subtitle A—Office of the Secretary of the Interior.....		1
Subtitle B—Land Regulations		
I General Land Office, Department of the Interior.....		51
II Bureau of Reclamation, Department of the Interior.....		401

(2) Tables of contents for titles without chapters, departmental subtitles and chapters, including two or more parts, shall show the numbers and captions of all parts included in the chapter or sub-

title and all subtitles, in the following form:

CHAPTER I—GENERAL LAND OFFICE
Department of the Interior
Subchapter A—Alaska

Part
51 Public Land Laws, Alaska.
56 Coordination and supervision of work in Alaska.

(3) Tables of contents for parts shall show the numbers and headnotes of all sections included in the part, and the captions and numbers, if any, of all subparts or analogous guide lines, in the following form:

PART 81—REGULATIONS RELATING TO COOPERATION WITH STATES IN THE ARREST, CONTROL, AND ERADICATION OF CONTAGIOUS AND INFECTIOUS DISEASES OF ANIMALS AND POULTRY

Subpart—Bang's Disease (Infectious Abortion), Cattle Reacting to Blood Test

Sec. Definitions

81.001 Words, names, and terms, meaning. Cooperation with States and Territories.

81.002 Chief of Bureau of Animal Industry authorized to cooperate with States and Territories.

Appraisal of cattle

81.003 By whom appraised.

81.004 How reported.

81.005 Proceeds of marketing, report.

(d) *Numbers and captions in tables of contents.* The numbers and captions of subtitles, titles, subchapters, parts, subparts, sections, etc., in tables of contents shall correspond literally with those in the text (except that the dash in chapters and part heads is to be omitted in listing these items in title or chapter tables of contents).

(e) *Heads for titles, etc.* Heads for titles, subtitles, chapters, subchapters, parts, and lettered or numbered subparts, shall include the designation and number or letter of the title, etc., separated by a dash from the caption, in the following form:

TITLE I—GENERAL PROVISIONS

Subpart heads, if not numbered or lettered [Cf. 1.9 (b)] shall include the designation and subpart separated by a dash from the caption, thus—

SUBPART—DEFINITIONS

The following shall not be included in captions in heads:

(1) The article "the" as an initial word in the caption.

(2) Concluding prepositions in heads (which are in inverted order so as to commence with significant words).

(f) *Punctuation of heads.* Heads shall be punctuated as follows:

(1) Commas, semicolons, and colons, not periods or dashes, are to be used to separate items without captions.

(2) Dashes shall be used to separate the number, letter, or designation in a center head from the caption [Cf. (e) of this section]; a section, paragraph, or subparagraph sidehead in the text from a following sidehead.

(3) There shall be no punctuation between a section, paragraph, etc., number or letter and the sidehead or text following.

(4) There shall be the following punctuation at the end of the heads:

Centered heads: None.
Sideheads for notes, etc.: Colon.

Sideheads in body of text, (section, paragraph, etc., headnotes): Period, if followed by text. Dash, if followed by sidehead. (Confer (2) above.)

(g) *Captions for chapters assigned to subdivisions of departments.* Such captions shall include the departmental designation, in the following form:

Chapter head: Chapter I—General Land Office Department of the Interior

	Chapter	Part
Table of contents	I General Land	51
for title:	Office, Department	
	of the Interior	

Running head: Chapter I—General Land Office (Interior)

(h) *Captions for subtitles and subchapters in sideheads for notes to sections.* In captions for subtitles and subchapters and in sideheads for notes to sections (which are to be set in capitals and small capitals), the initial letters of all nouns, pronouns, adjectives, verbs (including both elements of the verb "to be") adverbs, interjections and prepositions or conjunctions (which have four or more letters), should be capitalized. The remaining letters in such captions, including the initial letters of articles and prepositions or conjunctions of less than four letters, should be typed in lower case. In headnotes to sections, paragraphs, etc., the initial letters of the first word of all proper names only shall be capitalized.* #

1.11 *Joint regulations.* Whenever two or more Federal agencies issue documents jointly, or whenever an agency issues documents affecting two or more agencies, the problem of the location of the joint regulations within the codifications involved should be submitted to the Board.* #

STYLE

1.12 *Abbreviations: CFR.* Each agency shall join with the Board in settling the abbreviations peculiar to, and to be used by, the agency so that the same abbreviations will be used by all agencies for the same material.

"CFR" shall be used as the abbreviation for the Code of Federal Regulations.* #

1.13 *Style manual.* Punctuation, capitalization, orthography, and other matters of style shall conform, so far as practicable, to the most recent edition of the Style Manual of the United States Government Printing Office. Spelling of geographic names shall conform to the most recent decisions of the United States Geographic Board made pursuant to Executive order, No. 27-A of September 4, 1890, No. 399 of January 23, 1906, and No. 6680 of April 17, 1934.* #

1.14 *Description of tracts of land.* Descriptions of tracts of land shall conform, so far as practicable, with the most recent edition of the Specifications for Descriptions of Tracts of Land for Use in Executive orders and Proclamations, issued by the Board of Surveys and Maps of the Federal Government.* #

1.15 (a) *Cross references within a title.* Cross references to material within the same title in which the reference

occurs should be made without referring to the title number. Thus, a cross reference to a chapter within the title, a part within the title, a section within the title, or a paragraph within the title, should be made, respectively, as follows:

Chapter II.
Part 30.
Sec. 30.19.
Sec. 30.19(a) (where the reference is to a paragraph).

(b) *Cross references from the body of one title to material contained in other titles.* Cross references from one title to material in another title should include the title number and the Code symbol CFR. Thus, for example, cross references to a chapter, a part, a section, or a paragraph in another title should be, respectively, in the following forms:

10 CFR Chapter II.
10 CFR Part 30.
10 CFR 30.19.
10 CFR 30.19(a) (where the reference is to be a paragraph) * #.

1.16 *Codification of Executive orders and Presidential proclamations.* The Act of June 19, 1937 (50 Stat. 304; 44 U. S. C. Sup. III, 311), contemplates the inclusion in the codification of each agency of all Executive orders or Presidential proclamations which are in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, its duties and which are of general applicability and legal effect. This requirement is subject to the special rules outlined in Sec. 1.16 respecting Executive orders and Presidential proclamations which contain land descriptions.* #

DOCUMENTS RELATING TO PUBLIC LANDS

1.17 *Codification of Executive orders, Presidential proclamations, and other documents relating to public lands.* Codifications of the several agencies need not include documents which contain only land descriptions. In cases where documents contain codifiable regulatory material and also land descriptions such land descriptions may be included in the codification to preserve the sense and continuity of the document. In cases where the rights of private citizens are affected by land descriptions which embody reservations or define areas for public purposes, such descriptions should be included in the codifications of the several agencies, in tabulated form. In the following cases such tabulation should be made:

a. *Military and naval reservations.* All Executive orders and Presidential proclamations affecting such reservations.

b. *Wild life-refuge.* All Executive orders and Presidential proclamations defining boundaries of wild life refuges or designating portions of these areas as subject to specific types of regulations.

c. *National forests, monuments, and parks; historical sites.* All Presidential proclamations and Executive orders affecting national forests, monuments, and

parks. All orders of the Secretary of the Interior designating national historical sites.

d. *Grazing districts.* All orders of the Secretary of the Interior establishing or modifying the descriptions of land within grazing districts.

e. *Flight over restricted areas.* Executive orders prohibiting flight over restricted areas.

Tabulations should not be made in the following cases:

1. Executive orders transferring lands from one Federal agency to another.

2. Executive orders administered by the General Land Office withdrawing or reserving lands for any purpose unless specified under a, b, c, d, e above.

3. Executive orders withdrawing public lands for investigation and classification as mineral lands and orders or restoration after classification. (Coal, phosphate, petroleum, sodium, oil, shale, and potash lands.)

4. Executive orders affecting reservoir and power site reservations and restorations.

5. Orders of the Secretary of the Interior and the Commissioner of the General Land Office withdrawing or reserving public lands.

6. Orders of the Secretary of the Interior relating to public water reserves.

7. Classifications and reclassifications by the Director of the Geological Survey of the mineral status of public lands.

8. Departmental orders as to: water power designations, Act of 1888 reservoir site reserves, power site classifications, and orders modifying, cancelling, or interpreting such orders.

Whether or not tabulations should be made in any case not covered in the above enumeration shall be determined upon consultation between the agency and the Codification Board.* #

1.18 *Information to be included in tabulation.* Tabulations should contain the following information: (1) Name of reservation or area; (2) State or territory and, where possible, the county or analogous subdivision in which the reservation is located; (3) Subject matter, when appropriate; e. g., easement or other interests; (4) Number and date of all Executive orders and all Presidential proclamations referring to the reservation or area; (5) The serial number, if any, and the date of any other document to be included in the tabulation to be given in connection with the name or title of the document; (6) Citations to the Federal Register or to the Statutes-at-Large, in accordance with Sec. 1.18, when available, for all documents tabulated.* #

1.19 *Citation of Executive Orders and Proclamations in tabulations.* When available, the Federal Register citation to Executive orders and to Presidential proclamations should be given. In the case of Presidential proclamations, the citation to the Statutes-at-Large should be given. Citations to the Federal Register should be to the bound volume or,

when the document has not been published in a bound volume, to the Daily Issue page number, e. g., 3 F. R. 502 (DI). The following abbreviated forms of citation are suggested: E. O. 1173, Mar. 3, 1910; E. O. 7405, June 6, 1936 (1 F. R. 735); E. O. 7818, Feb. 17, 1938 (3 F. R. 503 (DI)); Proc. 2010, May 2,

1934 (47 Stat. 1516); Proc. 2161, Mar. 19, 1936 (49 Stat. 2210; 1 F. R. 39); Proc. 2273, Feb. 14, 1938 (3 F. R. 447 (DI)).* #

1.20 *Illustrative forms for tabulations.* The following forms for tabulations of documents subject to appropriate modifications are suggested:

Military Reservations

Name	State or territory	Subdivision	Easement or other interests	Documents affecting		
				No.	Date	Citation

Waterfowl Refuges

Refuge	State or territory	Subdivision	Documents affecting		
			No.	Date	Citation
Alba Waterfowl Refuge.....	Alaska.....	2d dis.....	E. O. 7020. E. O. 7128.	Feb. 2, 1936 Feb. 10, 1937	(2 F. R. 309 (DI).)

National Forests

Forest	State or territory	Subdivision	Documents affecting		
			No.	Date	Citation
Allegheny National Forest.....	Penna.....	Elk Co.....	Proc. 2010. Proc. 2101. E. O. 7308.	May 2, 1934 Mar. 19, 1936 Apr. 1, 1937	(47 Stat. 1516.) (47 Stat. 2210; 1 F. R. 39.) (3 F. R. 981 (DI).)

* #

1.21 *Additional information regarding public land documents.* In appropriate cases the agencies should supply footnotes stating where copies of the documents bearing upon a classification of public lands subject to regulations or information pertaining thereto may be obtained. In cases where tabulations of such documents are made this notation may conveniently form a footnote to the tabulation; in other cases, the footnote may be placed at the appropriate point in the codification. * #

1.22 *Miscellaneous (a) Effective date of regulations.* The foregoing regulations, subject to amendment or amplification, shall be effective immediately upon approval by the President.

(b) *Official mail.* All official mail on matters arising under Section 11 of the act or under these regulations should be addressed to:

THE CHAIRMAN, CODIFICATION BOARD,
THE NATIONAL ARCHIVES,
Washington, D. C. * #

1.23 *Repeal of existing codification regulations.* These regulations supersede any and all codification rules and regulations heretofore made, established, and issued pursuant to Section 11 (d) of the Federal Register Act by the Administrative Committee with the approval of the President. * #

1.24 *Publication of Regulations.* The foregoing regulations shall be published in the Federal Register.

Administrative Committee of
the Federal Register,

By R. D. W. Connor, *Chairman.*

Approved:

FRANKLIN D. ROOSEVELT
THE WHITE HOUSE,
Oct 11 1938

[F. R. Doc. 38-2998; Filed, October 12, 1938;
11:18 a. m.]

AMENDMENT OF FEDERAL REGISTER REGULATIONS

The Regulations prescribed by the Administrative Committee of the Federal Register and approved by the President May 26, 1938 (3 F. R. 1209 D. I.) are hereby amended as follows:

Paragraph (b) of Section VII¹ is amended to read as follows:

"The authority under which the document is promulgated shall be cited in the body thereof. However in documents which are subject to codification pursuant to Section 11 of the Federal Register Act as amended by the Act of

¹ 3 F. R. 1223 DI.

June 11, 1937 (50 Stat. 304) the authority shall be cited in parenthesis at the end of each section as prescribed by section 1.6 of the Codification Regulations."

Section XXI is amended to read as follows:

"All documents, excepting Presidential proclamations and Executive orders, amending, supplementing, revising, revoking or superseding material required to be prepared and to be filed with the Administrative Committee of the Federal Register pursuant to Section 11 of the Federal Register Act, as amended by the Act of June 19, 1937 (50 Stat. 304), shall be prepared in accordance with the provisions of Section VII of the Federal Register Regulations and Sections 1.6 and 1.9 of the Codification Regulations of October 11, 1938, and shall be filed in the office of the Director of the Division of the Federal Register. In addition, there shall be prepared in accordance with the provisions of Section VII of the Federal Register Regulations and Sections 1.6 and 1.9 of the Codification Regulations of October 11, 1938, and filed with the Director of the Division, all other documents, issued subsequent to June 1, 1938, which are subject to codification pursuant to Section 11 of the Federal Register Act, as amended by the Act of June 19, 1937 (50 Stat. 304); provided, however, that in such cases as it may be necessary, in the judgment of the Director of the Division, the application of this provision, concerning compliance with Sections 1.6 and 1.9 of the Codification Regulations may be deferred until March 1, 1939. Agencies desiring to have the application of this provision deferred shall address a written request to the Director of the Division setting forth therein the reasons for such request."

(Sec. 6, 49 Stat. 501; 44 U. S. C., Sup. III, 306)

Administrative Committee of
the Federal Register,
By R. D. W. Connor, *Chairman.*

Approved:

FRANKLIN D. ROOSEVELT
THE WHITE HOUSE,
Oct 11 1938

[F. R. Doc. 38-2999; Filed, October 12, 1938;
11:18 a. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF SECRETARY OF AGRICULTURE APPROVED BY THE PRESIDENT OF THE UNITED STATES WITH RESPECT TO PROPOSED ORDER REGULATING HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the terms and provisions of

Public Act No. 10, 73d Congress, as amended, having executed on January 23, 1937, a marketing agreement regulating the handling of milk in the Fort Wayne, Indiana, Marketing Area, which marketing agreement became effective on and after February 1, 1937, and having reason to believe that the execution of an amendment to said marketing agreement and the issuance of an order with respect to the handling of milk in the Fort Wayne, Indiana, Marketing Area would tend to effectuate the declared policy of said act as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, gave, on the 24th day of June, 1938, notice of a public hearing¹ to be held on a proposed amendment to said marketing agreement and on a proposed order, said hearing being held jointly with the State of Indiana at Fort Wayne, Indiana, on the 6th day of July 1938, and at said time and place all interested parties were afforded an opportunity to be heard on the proposed amendment to said marketing agreement and on the proposed order; and

Whereas, after said hearing and after the tentative approval of an amendment to said marketing agreement by the Secretary on August 30, 1938, handlers of more than fifty (50) percentum of the volume of milk covered by such proposed order, which is produced for sale in the Fort Wayne, Indiana, Marketing Area, refused or failed to sign such marketing agreement as tentatively amended:

Now, therefore, the Secretary of Agriculture, pursuant to the power and authority vested in him by said act, hereby determines:

(1) That the refusal or failure of said handlers to sign said marketing agreement as tentatively amended tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

(3) That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the month of June, 1938, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area, and who participated in a referendum conducted by the Secretary.

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agri-

culture to be affixed hereto, in the City of Washington, District of Columbia, this 7th day of October, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT
The President of the United States
Dated: October 10 1938

[F. R. Doc. 38-2994; Filed, October 11, 1938;
2:53 p. m.]

ORDER REGULATING SUCH HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, on January 23, 1937, issued a marketing agreement regulating the handling of milk in the Fort Wayne, Indiana, marketing area, which marketing agreement became effective on February 1, 1937; and

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, having reason to believe that the execution of an amendment to the aforementioned marketing agreement and the issuance of an order with respect to the handling of milk in the Fort Wayne, Indiana, marketing area would tend to effectuate the declared policy of said act, gave, on the 24th day of June 1938, notice of a public hearing¹ to be held at Fort Wayne, Indiana, on the 6th day of July 1938, on a proposed amendment to said marketing

agreement and on a proposed order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amendment to said marketing agreement and on the proposed order; and

Whereas, the Secretary has found and proclaimed the period August 1919-July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Fort Wayne, Indiana, marketing area; and

Whereas, after said hearing and after the tentative approval by the Secretary of an amendment to said marketing agreement on the 30th day of August 1938, handlers of more than 50 percent of the volume of milk covered by this order, which is marketed within the Fort Wayne, Indiana, marketing area, failed or refused to sign such tentatively approved amendment to said marketing agreement; and

Whereas, the Secretary determined, on the 7th day of October 1938, said determination being approved by the President of the United States on the 10th day of October 1938, that said refusal or failure tends to prevent the effectuation of the declared policy of said act and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area, and is approved or favored by over two-thirds of the producers who, during the month of June 1938, said month having been determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the Fort Wayne, Indiana, marketing area; and

Whereas, the Secretary of Agriculture finds, upon the evidence introduced at said public hearing:

1. That approximately 6 percent of the total volume of milk handled in the Fort Wayne, Indiana, marketing area is in the current of interstate commerce, and that regulation of the handling of such milk in said area, complementary to the regulation of the State of Indiana, is necessary in order, among other things, to obtain uniformity in the administration of the Federal and State programs relating to the regulation of the handling of milk in said area;

2. That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

¹ 3 F. R. 1516 DI.

¹ 3 F. R. 1516 DI.

3. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement and an amendment to such marketing agreement upon which hearings have been held; and

4. That orderly marketing conditions for milk flowing into the Fort Wayne, Indiana, marketing area are so disrupted as to result in impairment of the purchasing power of such milk, and that the issuance of this order and all of its terms and conditions will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by said act, hereby orders that such handling of milk produced for sale in the Fort Wayne, Indiana, marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in conformity to and in compliance with the terms and conditions hereinafter set forth.

ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—The following terms shall have the following meanings:

1. "Fort Wayne, Indiana, marketing area," hereinafter called the marketing area, means the territory within the corporate limits of Fort Wayne, Indiana, and the territory within 4 miles of the corporate limits of Fort Wayne, Indiana.

2. "Person" means any individual, partnership, corporation, association, and any other business unit.

3. "Producer" means any person, irrespective of whether such person is also a handler, who produces milk in conformity with the health requirements applicable for milk to be sold for consumption as milk in the marketing area.

4. "Distributor" means any person so defined in chapter 281 of the acts of the General Assembly of the State of Indiana for the year 1935 who handles milk which is sold as milk or cream in the marketing area.

5. "Handler" means any person, irrespective of whether such person is a producer or an association of producers, wherever located or operating, who engages in such handling of milk, which is sold as milk or cream in the marketing area, as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in milk and its products.

6. "Market administrator" means the person designated pursuant to article II as the agency for the administration hereof and designated by the Milk Control Board of Indiana as the administrator of the order of said board regulating the marketing area.

7. "Delivery period" means the current marketing period from the 1st to,

No. 200—2

and including, the last day of each month.

8. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

9. "Secretary" means the Secretary of Agriculture of the United States.

ARTICLE II—MARKET ADMINISTRATOR

SECTION 1. *Selection, removal, and bond.*—The market administrator shall be selected by the Secretary and shall be subject to removal by him at any time. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

SEC. 2. *Compensation.*—The market administrator shall be entitled to such reasonable compensation as may be determined by the Secretary.

SEC. 3. *Powers.*—The market administrator shall have power:

1. To administer the terms and provisions hereof; and
2. To receive, investigate, and report to the Secretary complaints of violations of the terms and provisions hereof.

SEC. 4. *Duties.*—The market administrator, in addition to the duties herein-after described, shall:

1. Keep such books and records as will clearly reflect the transactions provided for herein;
2. Submit his books and records to examination by the Secretary at any and all times;
3. Furnish such information and such verified reports as the Secretary may request; and
4. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article V or (b) made payments pursuant to article VIII.

SEC. 5. *Responsibility.*—The market administrator, in his capacity as such, shall not be held responsible in any way whatsoever to any handler or any other person for errors in judgment, for mistakes, or for other acts either of commission or omission, except for his own willful misfeasance, malfeasance, or dishonesty.

ARTICLE III—CLASSIFICATION OF MILK

SECTION 1. *Sales and use classification.*—Milk purchased or handled by handlers shall be classified as follows:

1. All milk sold or distributed as milk, all milk used to produce cream which is sold as fluid cream, and all milk not specifically accounted for as Class II milk shall be Class I milk;

2. All milk from which the butterfat is sold or manufactured into a milk product, other than cream which is sold as fluid cream, and all milk accounted for as actual plant shrinkage but not exceeding 3 percent of the total receipts of milk, shall be Class II milk.

SEC. 2. *Interhandler and nonhandler sales.*—Milk sold by a handler to another handler or to a person not a handler who distributes milk or manufactures milk products shall be presumed to be Class I milk. In the event that such selling handler, on or before the date fixed for filing reports pursuant to article V, furnishes proof satisfactory to the market administrator that such milk has been sold or disposed of by such purchaser other than as Class I milk, then, and in that event, such milk shall be classified in accordance with such proof.

ARTICLE IV—MINIMUM PRICES

SECTION 1. *Class I price.*—Each handler shall pay producers, in the manner set forth in article VIII, for the 4 percent butterfat content equivalent of Class I milk, at such handler's plant, not less than \$2.15 per hundredweight.

SEC. 2. *Class II price.*—Each handler shall pay producers, in the manner set forth in article VIII, for the 4 percent butterfat content equivalent of Class II milk, not less than that price per hundredweight, calculated for each delivery period by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is received, and add 30 percent thereof: *Provided*, That for a quantity of Class II milk not to exceed 15 percent of the 4 percent butterfat content equivalent of the Class I milk sold by such handler, each handler shall pay producers, in the manner set forth in article VIII, not less than that price per hundredweight calculated for each delivery period by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is received and add 10 cents.

ARTICLE V—REPORTS OF HANDLERS

SECTION 1. *Periodic reports.*—On or before the 5th day after the end of each delivery period each handler shall, with respect to milk or cream which was, during such delivery period, (a) received from producers, (b) received from handlers, and (c) produced by such handler, report to the market administrator, in the detail and form prescribed by him, as follows:

1. The receipts at each plant from producers who are not handlers;

2. The receipts at each plant from any other handler, including any handler who is also a producer;

3. The quantity, if any, produced by such handler; and

4. The respective quantities of milk which were sold, distributed, or used, including sales to other handlers, for the purpose of classification pursuant to article III.

SEC. 2. Reports as to producers.—Each handler shall report to the market administrator:

1. Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made; and

2. As soon as possible after first receiving milk from any producer, (a) the name and address of such producer, (b) the date upon which such milk was first received, and (c) the plant at which such producer delivered milk.

SEC. 3. Reports of payments to producers.—Each handler shall submit to the market administrator on or before the 20th day after the end of each delivery period his producer pay roll for such delivery period which shall show for each producer (a) the net amount of such producer's payment with the prices, deductions, and charges involved, and (b) the total delivery of milk with the average butterfat test thereof.

SEC. 4. Verification of reports.—In order that the market administrator may submit verified reports to the Secretary pursuant to paragraph 3 of section 4 of article II, each handler shall permit the market administrator or his agent, during the usual hours of business, to (a) verify the information contained in reports submitted in accordance with this article and (b) weigh milk delivered by each producer and sample and test milk for butterfat.

ARTICLE VI—HANDLERS WHO ARE ALSO PRODUCERS

SECTION 1. With respect to each handler who is also a producer:

1. The market administrator shall, subject to the condition set forth in paragraph 2 of this section, exclude from the computations made pursuant to section 1 of article VII, the quantity of milk produced and sold, used, or distributed by such handler: *Provided*, That where any such handler has purchased milk from other producers, the value of the milk purchased shall be computed under section 1 of article VII as follows: the quantity of such milk shall be ratably apportioned among such handler's total Class I and Class II sales (after

excluding purchasers, if any, from other handlers) and multiplied by the Class I and Class II prices, respectively.

2. The market administrator shall, upon prior written notice from such handler of the exercise thereof, grant the option of having all milk produced by such handler included in the computation made pursuant to section 1 of article VII in lieu of the provisions of paragraph 1 of this section.

3. The market administrator shall consider as Class II milk any milk or cream sold in bulk by any such handler who has not exercised the option set forth in paragraph 2 of this section, to another handler operating a bottling or processing plant. If such buying handler uses or sells such milk or cream for other than Class II purposes, the market administrator shall add to the total value computed pursuant to section 1 of article VII the difference between (a) the value of such milk or cream at the Class II price and (b) the value according to its actual usage.

ARTICLE VII—DETERMINATION OF UNIFORM PRICES TO PRODUCERS

SECTION 1. Computation of the value of milk for each distributor.—For each delivery period the market administrator shall compute from the report of each distributor the value of milk sold or used by such distributor, which was not purchased from other distributors, as follows:

1. Multiply by the Class I price the hundredweight of milk computed as follows: divide by 4 the butterfat contained in the total weight of the units of Class I milk determined by the average butterfat test of the several units of Class I milk;

2. Multiply by the Class II prices the hundredweight of milk computed as follows: divide by 4 the butterfat contained in the total weight of the products of Class II milk determined by the average butterfat test of the several products in Class II milk;

3. Combine into one total the hundredweight of milk computed pursuant to paragraphs 1 and 2 of this section;

4. Combine into one total the values of the milk computed pursuant to paragraphs 1 and 2 of this section;

5. If the hundredweight of milk computed pursuant to paragraph 3 of this section is less than the hundredweight of milk received from producers, multiply such difference by 10 cents per hundredweight; add such amount to the value of milk computed pursuant to paragraph 4 of this section; and add to the computed hundredweight of milk an amount representing the difference between such hundredweight and the hundredweight of milk received from producers; and

6. If the hundredweight of milk computed pursuant to paragraph 3 of this section is greater than the hundredweight of milk received from producers, multiply such difference by 10 cents

per hundredweight; subtract such amount from the value of milk computed pursuant to paragraph 4 of this section; and subtract from the computed hundredweight of milk an amount representing the difference between such hundredweight and the hundredweight of milk received from producers.

SEC. 2. Computation and announcement of uniform prices.—The market administrator shall, for each delivery period, make computations and announce the uniform price per hundredweight of milk received by handlers and distributors during each delivery period as follows:

1. Combine into one total the respective values of milk computed pursuant to section 1 of this article for each distributor who made the payments required of him for the previous delivery period;

2. For all milk received from a producer who did not regularly sell milk during a period of 30 days next preceding February 1, 1937, subtract an amount computed by multiplying by the lower Class II price the hundredweight of milk received from such producer. Such computation shall be made for all milk received from each such producer during the period beginning with his first regular delivery of milk and continuing until the end of two full calendar months following the date of such first delivery of milk;

3. If the hundredweight of milk computed pursuant to paragraph 3 of section 1 is less than the hundredweight of milk received from producers, add an amount computed by multiplying such difference by \$1.20 per hundredweight;

4. If the hundredweight of milk computed pursuant to paragraph 3 of section 1 is greater than the hundredweight of milk received from producers, subtract an amount computed by multiplying such difference by \$1.20 per hundredweight;

5. Divide by the hundredweight of milk received from producers, other than the milk represented by the amount subtracted in paragraph 2 of this section;

6. Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining a cash balance in connection with the payments set forth in paragraph 3 of section 1 of article VIII;

7. Add an amount per hundredweight of milk which will prorate any cash balance available pursuant to section 3 of this article; and

8. On or before the 10th day after the end of each delivery period, the market administrator shall notify each handler and each distributor of the uniform price for milk and of the Class II price, and shall make public announcement of the computation of the uniform price.

SEC. 3. Proration of cash balance.—For each delivery period, the market administrator shall prorate, by an appropriate addition pursuant to para-

graph 7 of section 2 of this article, the cash balance, if any, available from payments received by him during the next preceding delivery period to meet obligations arising out of paragraph 3 of section 1 of article VIII.

ARTICLE VIII—PAYMENTS FOR MILK

SECTION 1. Time and method of payment.—On or before the 15th day after the end of each delivery period, each handler shall make payment for the total value of milk received from producers during such delivery period, computed according to section 1 of article VII, subject to the butterfat differential set forth in section 3 of this article, as follows:

1. To producers located outside the State of Indiana, at not less than the uniform price per hundredweight, computed pursuant to section 2 of article VII, for all milk received from each such producer;

2. To any producer located outside the State of Indiana who did not regularly sell milk during a period of 30 days next preceding February 1, 1937, at not less than the lower Class II price for all the milk received from such producer during the period beginning with the first regular delivery of such producer and continuing until the end of two full calendar months following the date of such first delivery of milk; and

3. To producers, through the market administrator, by paying to or receiving from the market administrator, as the case may be, the amount by which the sum representing the payments to be made by such handler, pursuant to paragraphs 1 and 2 of this section, is less than, or exceeds, the total value of milk computed for such handler pursuant to section 1 of article VII, as shown in a statement rendered by the market administrator on or before the 10th day after the end of such delivery period.

Sec. 2. Errors in payments.—Errors in making the payments prescribed in this article shall be corrected not later than the date for making payments next following the determination of such errors.

Sec. 3. Butterfat differential.—If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 4 percent, such handler shall pay to such producer, for each one-tenth of one percent of average butterfat content above 4 percent, or shall deduct for each one-tenth of one percent of average butterfat content below 4 percent, 3 cents per hundredweight.

Sec. 4. Advance payments.—Nothing contained in this article shall be construed as preventing the making, by any handler, of advance payments to producers for current deliveries of milk.

ARTICLE IX—MARKETING SERVICES

SECTION 1. Deductions for marketing services.—Each handler shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be de-

termined by the market administrator, subject to review by the Secretary) from the payments made direct to producers pursuant to paragraphs 1 and 2 of section 1 of article VIII, with respect to all milk received by such handler during the delivery period from such producers, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Except as set forth in section 2 of this article, such moneys shall be expended by the market administrator only for market information to, and for verification of weights, samples, and tests of milk received from, said producers.

Sec. 2. Payment to an association.—In the case of producers for whom a co-operative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing (as determined by the market administrator, subject to review by the Secretary) the services set forth in section 1 of this article, the market administrator may pay to such association, with respect to the deliveries of milk of producers who are members of or who are marketing their milk through such association, and who received payment for milk pursuant to paragraph 1 of section 1 of article VIII, an amount per hundredweight equal to the per hundredweight deduction made from all producers pursuant to section 1 of this article.

ARTICLE X—AMENDMENT, SUSPENSION, AND TERMINATION

SECTION 1. Effect of amendment, suspension, or termination.—The amendment, suspension, or termination of any or all of the provisions of this order shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise, in connection with any of the provisions herein.

Sec. 2. Power of the market administrator to liquidate.—Upon the suspension or termination of this order, the powers and duties of the market administrator shall be continued for the purpose of permitting the market administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same, and (4) ship all books and records to the Secretary for filing.

ARTICLE XI—LIABILITY

SECTION 1. Handlers.—The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural

Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 11th day of October, 1938, and declares this order to be effective on and after 12:01 a. m., October 15, 1938.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2993; Filed, October 11, 1938;
2:53 p. m.]

DETERMINATION OF NORMAL YIELDS OF COMMERCIALY RECOVERABLE SUGAR PER ACRE FOR SUGAR BEETS—1938 SUGAR BEET PROGRAM

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the normal yield of commercially recoverable sugar per acre for a farm on which sugar beets were planted for harvest in 1938 shall be the amount of sugar obtained by multiplying the normal yield of sugar beets, in tons per acre, for the farm by the amount of sugar, raw value, determined to be commercially recoverable in the determination entitled "Determination of Sugar Commercially Recoverable from Sugar Beets," approved March 28, 1938,¹ from a ton of sugar beets of normal percentage of sugar content for the farm.

For the purposes of this determination:

I. The normal yield of sugar beets in tons per acre shall be,

A. For a farm on which sugar beets were planted for harvest in three or more of the years 1931-37, inclusive, the simple average of the annual average yields of sugar beets per acre planted on the farm for harvest for all of the years 1931-37, inclusive, in which sugar beets were planted for harvest;

B. For a farm on which sugar beets were planted for harvest in only one or two of the years 1931-37, inclusive, the number of tons obtained by multiplying the county normal yield in tons of sugar beets per acre² by the percentage that the simple average of the yields of sugar beets per acre planted on the farm for harvest in such year or two years is of the simple average of the yields of sugar beets per acre for the county for such year or two years, which county average yield shall be, (1) for any year in which sugar beets were planted for harvest on ten or more of the farms on which sugar beets were planted for harvest in 1938, the weighted average yield of sugar beets per acre planted for harvest in that year on farms in the county on which sugar beets were planted for harvest in 1938;

¹ 3 F. R. 769 DI.

² Defined in C of this section.

and (2) for any year in which sugar beets were planted for harvest on less than ten of the farms on which sugar beets were planted for harvest in 1938, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for that year in the county and in adjacent counties which have similar sugar beet production conditions; *Provided, however*, That the normal yield for such farm shall not be less than 80 percent nor more than 120 percent of the county normal yield; and

C. For a farm on which sugar beets were not planted for harvest in any of the years 1931-37, inclusive, 90 percent of the county normal yield per acre, which county normal yield shall be, (1) for a county in which sugar beets were planted for harvest in three or more of the years 1931-37, inclusive, on ten or more of the farms on which sugar beets were planted for harvest in 1938, the simple average of the county average yields, as defined in B above, for all of the years 1931-37, inclusive, in which sugar beets were planted for harvest on ten or more of such farms; and (2) for a county in which sugar beets were planted for harvest in less than three of the years 1931-37, inclusive, on ten or more of the farms on which sugar beets were planted for harvest in 1938, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for the years 1931-37, inclusive, in the county and in adjacent counties which have similar sugar beet production conditions.

II. The normal percentage of sugar content of sugar beets shall be,

A. For farms from which sugar beets were contracted to be marketed in 1938 under that type of agreement commonly known as an "individual test contract," as follows:

(1) In cases in which sugar beets were so marketed in three or four of the years 1934 to 1937, inclusive, the simple average of the annual average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such years (including all years in which sugar beets were so marketed);

(2) In cases in which sugar beets were so marketed in only one or two of the years 1934 to 1937, inclusive, the percentage of sugar content obtained by multiplying the county normal percentage of sugar content of sugar beets¹ by the percentage that the simple average of the average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such year or two years is of the simple average of the average percentages of sugar content of sugar beets for the county for such year or two years, which county average percentage shall be, (a)

for any year in which sugar beets were so marketed from ten or more of the farms on which sugar beets were planted for harvest in 1938, the weighted average percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in that year from farms in the county on which sugar beets were planted for harvest in 1938; and (b) for any year in which sugar beets were so marketed from less than ten of the farms on which sugar beets were planted for harvest in 1938, the percentage of sugar content established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in that year from farms in the county and in adjacent counties; and

(3) In cases in which sugar beets were not so marketed in any of the years 1934 to 1937, inclusive, the county normal percentage of sugar content of sugar beets, which county normal percentage shall be, (a) for a county in which sugar beets were so marketed in three or four of the years 1934 to 1937, inclusive, from ten or more of the farms on which sugar beets were planted for harvest in 1938, the simple average of the county average percentages of sugar content of sugar beets, as defined in (2) above, for such years (including all years in which sugar beets were so marketed from ten or more of the farms on which sugar beets were planted for harvest in 1938); and (b) for a county in which sugar beets were not so marketed in at least three of the years 1934 to 1937, inclusive, from ten or more of the farms on which sugar beets were planted for harvest in 1938, the percentage of sugar content of sugar beets established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in the years 1934 to 1937, inclusive, from farms in the county and in adjacent counties; and

B. For farms from which sugar beets were contracted to be marketed in 1938 under any type of agreement other than that commonly known as an "individual test contract," the normal percentage of sugar content of sugar beets for the district (an area in which a common marketing agreement was in use in 1938), which district normal percentage shall be:

(1) For districts in which beet sugar factories were operated in three or more of the years 1931-37, inclusive, the simple average of the annual average percentages of sugar content, at the time of processing, of all of the sugar beets processed in the district in all of such years in which sugar beets were processed; and

(2) For districts in which beet sugar factories were operated in less than three of the years 1931-37, inclusive, the percentage of sugar content of sugar beets

established by the Agricultural Adjustment Administration on the basis of the average percentage of sugar content, at the time of processing, of sugar beets produced under similar conditions in the years 1931-37, inclusive.

Done at Washington, D. C., this 12th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3001; Filed, October 12, 1938
11:47 a. m.]

TITLE 16—COMMERCIAL PRACTICES FEDERAL TRADE COMMISSION

[Docket No. 3313]

IN THE MATTER OF THE GOUDEY GUM COMPANY ET AL.

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to wholesale dealers, etc., chewing gum, so packed, etc., that sales thereof to general public are to be, or are designed to be made, by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to wholesale dealers, etc., assortments of chewing gum which are, or are designed to be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Packing, etc., in same assortment, for sale to public at retail, uniform pieces of different colored chewing gum, with small flags or other articles as prizes for purchasers procuring certain color, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to wholesale dealers, etc., display cards, either with assortments of chewing gum or separately, bearing statement, etc., informing purchaser that the chewing gum is being sold to public by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in

¹ Defined in A (3) of this section.

the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF THE GOUDY GUM COMPANY, A CORPORATION, ALSO TRADING AS AROUND THE WORLD GUM COMPANY; AND RAINBOW GUM COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs of counsel filed herein (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, The Goudy Gum Company, a corporation, in its own name or trading as Around The World Gum Company, or under any other name, its officers, representatives, agents and employees; and the respondent, Rainbow Gum Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of chewing gum in interstate commerce, do cease and desist from:

(1) Selling and distributing to wholesale dealers and jobbers for resale to retail dealers, chewing gum so packed and assembled that sales of such chewing gum to the general public are to be made or are designed to be made by means of a lottery scheme, gaming device, or gift enterprise.

(2) Supplying to or placing in the hands of wholesale dealers and jobbers, assortments of chewing gum which are used or are designed to be used, without alteration or rearrangement of the contents of such assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the chewing gum contained in said assortments to the public.

(3) Packing or assembling in the same package or assortment of chewing gum, for sale to the public at retail, pieces of chewing gum of uniform size and shape but of different colors, together with small flags or other articles of merchandise, which said small flags or other articles of merchandise are to be given as prizes to the purchaser of a piece of chewing gum of a particular color.

(4) Furnishing to wholesale dealers and jobbers display cards, either with assortments of chewing gum or separately,

bearing a statement or statements informing the purchaser that the chewing gum is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That the respondents shall, within sixty (60) days after the service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2995; Filed, October 12, 1938;
9:18 a. m.]

[Docket No. 3476]

IN THE MATTER OF 4-U COMPANY OF AMERICA

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., citric acid, sodium citrate, lithium citrate, sodium tartrate and bottle crowns so arranged, etc., that sales thereof to the general public are to be, or may be, made by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to, etc., dealers, citric acid, sodium citrate, lithium citrate, sodium tartrate and bottle crowns, or any other products, with a device which is to be, or may be used, in selling, etc., said products to purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to dealers bottle caps or crowns with letters or numbers therein, either with other products or separately, which are to be, or may be used, in selling, etc., said products to purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that soda water made from respondents' products is slenderizing, energizing, alkalizing, or healthful, and will relieve acid stomach and after effects resulting from excessive use of alcohol, and making other representations of similar import with respect thereto, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec.

45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF NATHAN LEVIN, MAXWELL LEVIN, MORRIS W. LEVIN, INDIVIDUALLY, AND AS CO-PARTNERS TRADING AS 4-U COMPANY OF AMERICA

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer respondents admit all of the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Nathan Levin, Maxwell Levin, Morris W. Levin, individually, and as co-partners trading under the name of 4-U Company of America, or under any other trade name, their agents, representatives, and employees, in connection with the offering for sale, sale, and distribution of citric acid, sodium citrate, lithium citrate, sodium tartrate, and bottle crowns in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Selling and distributing said products so arranged and assembled that sales of such products to the general public are to be made, or may be made, by means of a game of chance, gift enterprise, or lottery scheme.

2. Furnishing to, or placing in the hands of, dealers said products, or any other products, together with a device, which said device is to be used, or may be used, in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme.

3. Furnishing to dealers bottle caps or crowns with printed or impressed letters or numbers therein, either with other products or separately, which said bottle caps or crowns are to be used, or may be used, in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme.

4. Advertising that soda water manufactured from said products is slenderizing, energizing, invigorating, alkalizing, or healthful; that said soda water will

¹ 3 F. R. 546 DL.

relieve an acid stomach and the after effects resulting from the excessive use of alcohol, commonly referred to as a "hangover"; and, from making any other representations of similar import and effect concerning said soda water.

It is further ordered, That the respondents, Nathan Levin, Maxwell Levin, and Morris W. Levin shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2996; Filed, October 12, 1938;
9:18 a. m.]

[Docket No. 3501]

IN THE MATTER OF MIDWEST GROCERY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to dealers, groceries so packed, etc., that sales thereof are to be, or are designed to be, made to general public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Midwest Grocery Company, Docket 3501, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers, groceries, together with coupons and circulars with numbers printed thereon, for use in sale of said groceries to general public by means of game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Midwest Grocery Company, Docket 3501, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers, coupons and circulars with numbers printed thereon, etc., for use in sale and distribution of groceries, etc., to general public, by means of game of chance, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Midwest Grocery Company, Docket 3501, September 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and the

answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Midwest Grocery Company, a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of groceries in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers groceries so packed and assembled that sales thereof are to be made, or are designed to be made to the general public, by means of a game of chance, gift enterprise, or lottery scheme.

(2) Supplying to, and placing in the hands of dealers, groceries together with coupons and circulars with numbers printed thereon, which said coupons and circulars are to be used, or are designed to be used, in the sale and distribution of said groceries to the general public by means of a game of chance, gift enterprise, or lottery scheme.

(3) Supplying to, or placing in the hands of dealers, coupons with numbers printed thereon and circulars with numbers printed thereon, or any other device or devices, which are to be, or are designed to be, used in the sale and distribution of groceries, or any other products, to the general public by means of a game of chance, gift enterprise, or lottery scheme.

It is further ordered.—That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2997; Filed, October 12, 1938;
9:18 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49721]

ENTRY OF AIRCRAFT WITHOUT SPECIAL AUTHORITY FROM DEPARTMENT OF COMMERCE

LIST OF COUNTRIES PUBLISHED PURSUANT TO THE PROVISIONS OF THE CUSTOMS REGU- LATIONS OF 1937, AS AMENDED

October 7, 1938.

To Collectors of Customs and Others Concerned:

Under the provisions of the Customs Regulations of 1937 (art 253 (c), and art.

477 (b), as amended by T. D. 39653¹) permits on customs Forms 4449 and 4447 may be issued covering foreign aircraft, without prior authority from the Department of Commerce, when such craft are registered in a country with which the United States has a reciprocal agreement concerning aircraft and piloting privileges. The following is a list of countries with which the United States has such agreements:

Canada.¹
Chile.²
Colombia.³
Costa Rica.²
Denmark.⁴
Dominican Republic.⁵
Ecuador.²
Germany.²
Great Britain.⁴
Guatemala.²
Haiti.²
Honduras.²
Ireland.²
Italy.⁶
Nicaragua.²
Norway.¹
Panama.²
Sweden.²
The Netherlands.²
Union of South Africa.²

¹ No mention in agreement of application to specific territories or possessions. Regarded, however, as applicable to Alaska and continental United States.

² No mention in agreement of application to specific territories or possessions. Matter to be determined in the event of a case arising.

³ Applies only to commercial aircraft which are permitted to land on land or water in the Atlantic and Pacific ports of the United States. The extent to which aircraft may enter the United States under the agreement to be determined in the event of a case arising.

⁴ Applies to flights in the continental United States, including Alaska, and Puerto Rico.

⁵ Applies only to flights in the continental United States, exclusive of Alaska.

⁶ The language of the agreement indicates that it is applicable to territories and possessions of the United States as well as to continental United States.

⁷ Applies only to flights in the United States, its territories and possessions, exclusive of the Hawaiian Islands.

⁸ Applies only to flights in the continental United States of aircraft registered in The Netherlands which are not engaged in the commercial transportation of goods or passengers. Aircraft from this country may enter the United States under customs Form 4447 without prior authority from the Department of Commerce, but must obtain the prior approval of that Department when entering under customs Form 4449.

This Treasury decision supersedes Treasury Decisions 46898 and 47595.

[SEAL]

JAMES H. MOYLE,
Commissioner of Customs.

[F. R. Doc. 38-3002; Filed, October 12, 1938;
12:38 p. m.]

¹ 3 F. R. 1808 DL.

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT¹

OCTOBER 12, 1938.

To J. M. COOK and E. L. CALDWELL, *doing business as Cook & Caldwell Commission Market, Alexandria, La.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Cook & Caldwell Commission Market, at Alexandria, State of Louisiana, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3000; Filed, October 12, 1938; 11:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of October 1938.

[File No. 1-879]

IN THE MATTER OF APPLICATION BY NEW YORK STOCK EXCHANGE CONCERNING FIRST MORTGAGE FIFTY-YEAR 4½% GOLD BONDS, DUE JUNE 1, 1943, OF THE STATEN ISLAND RAILWAY COMPANY

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the First Mortgage Fifty-Year 4½% Gold Bonds, due June 1, 1943, of The Staten Island Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tues-

¹ Modifies list posted stockyards 9 CFR 13.034.

day, November 1, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3005; Filed, October 12, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of October 1938.

[File No. 1-2416]

IN THE MATTER OF APPLICATION BY NEW YORK STOCK EXCHANGE CONCERNING 6% REFUNDING EXTERNAL SINKING FUND GOLD BONDS, DUE MARCH 1, 1961 (UNSTAMPED) OF PROVINCE OF BUENOS AIRES (ARGENTINE REPUBLIC)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 6% Refunding External Sinking Fund Gold Bonds, due March 1, 1961 (Unstamped) of Province of Buenos Aires (Argentine Republic); and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, November 3, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production

of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3004; Filed, October 12, 1938; 12:40 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission at its office in the City of Washington, D. C., on the 12th day of October, A. D. 1938.

[File Nos. 34-14, 34-15]

IN THE MATTER OF ARTHUR E. SWANSON, KELLOGG LOGSDON AND GARY BARTHELL CONSTITUTING A BONDHOLDERS' PROTECTIVE COMMITTEE, AND THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications and declarations pursuant to Sections 11 (g) and 12 (e) of the Public Utility Holding Company Act of 1935, and Rule U-12E promulgated thereunder having been duly filed with this Commission by the above named parties;

It is ordered, That a hearing on such matters be held on October 31, 1938 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 26, 1938.

The matters concerned herewith are in regard to:

(1) A joint application by Arthur E. Swanson, Kellogg Logsdon and Gary Barthell, constituting a bondholders' protective committee under a bondholders'

protective agreement dated December 6, 1932, as amended, providing for the deposit of Collateral Trust Sinking Fund Gold Bonds Series A 6%, Series B 6% and Series C 6% of Inland Power & Light Corporation, a registered holding company, and by The Middle West Corporation, a registered holding company, regarding a proposed plan of reorganization of Inland Power & Light Corporation and The Commonwealth Light & Power Company, requesting a report on the proposed plan of reorganization by the Securities and Exchange Commission. Proceedings for the reorganization of the two companies last mentioned pursuant to the provisions of Section 77B of the Bankruptcy Act are pending in the District Court of the United States for the Northern District of Illinois, Eastern Division.

The proposed plan of reorganization contemplates the dissolution of Commonwealth and the formation of a reorganized company as successor to both companies now in reorganization. The reorganized company will have only common stock outstanding, which will be distributed to the creditors of Commonwealth and Inland.

The treatment of creditors and stockholders of Inland under the proposed plan will be as follows:

For each \$1,000 principal amount of First Lien Collateral Trust Bonds, Series A, B, and C, accompanied by, in the case of Series A bonds, all interest coupons maturing on and after March 1, 1933, in the case of Series B bonds, all interest coupons maturing on and after May 1, 1933, and in the case of the Series C bonds, all interest coupons maturing on and after April 1, 1933, there shall be issued in exchange 50 shares of the common stock of the reorganized company. Upon consummation of the Plan and participation therein by all persons entitled to participate, approximately 239,125 shares of the new common stock will be issued to the Inland bondholders, constituting approximately 71.5% of the

total capital stock of the reorganized company to be outstanding under the Plan.

For each \$1,000 Sinking Fund Debenture of Inland, together with all coupons maturing on and after December 1, 1932, there shall be issued in exchange 22.85 shares of the common stock of the reorganized company. Upon consummation of the Plan and participation therein by all persons entitled to participate there will be distributed to the holders of debentures of Inland an aggregate of approximately 26,552 shares of the common stock of the reorganized company constituting approximately 7.94% of the total capital stock of the reorganized company to be outstanding under the Plan.

For each \$1,000 amount of claims allowed to unsecured creditors in the pending Inland reorganization proceedings, other than claims to be paid in full, aggregating \$1,877.01, and other than the claim of Commonwealth, the treatment of which is hereafter described, there will be distributed 19,437 shares of common stock of the reorganized company. Upon consummation of the Plan and participation therein by all persons entitled to participate, approximately 1,713 shares of new common stock will be issued to such other unsecured creditors, constituting approximately .51% of the total capital stock of the reorganized company to be outstanding under the Plan.

The holders of the outstanding preferred stocks and common stocks of Inland will receive no participation in the securities of the reorganized company.

The treatment of creditors and stockholders of Commonwealth under the proposed plan will be as follows:

Inland is indebted to Commonwealth upon an unsecured claim in the amount of \$3,449,646.89. Commonwealth as a creditor of Inland will be entitled under the distribution provisions herein set forth, to 67,050 shares of stock of the reorganized company. This is equivalent to 19,437 shares for each \$1,000

principal amount of Commonwealth debt as will be received by other unsecured creditors of Inland. The stock which would otherwise be issued to the Trustee in Bankruptcy of Commonwealth on account of the Commonwealth claim will be issued directly to the creditors of Commonwealth. Creditors of Commonwealth, whose claims, including \$283,956.99 of interest accrued prior to bankruptcy on the Refunding and Unifying Bonds, approximate \$2,000,000, will receive 33.46 shares of the common stock of the reorganized company for each \$1,000 of claim. Upon consummation of the Plan and participation therein by all persons entitled to participate, approximately 67,050 shares of new common stock will be distributed to the creditors of Commonwealth, constituting approximately 20% of the total capital stock of the reorganized company to be outstanding under the Plan.

The holders of the outstanding common stock of Commonwealth will receive no participation in the stock of the reorganized company.

It is stated that applicant, The Middle West Corporation, is the owner of approximately 24.27% of the bonds of Inland, 29.24% of the outstanding debentures of Inland, 93.55% of the outstanding Refunding and Unifying Bonds of Commonwealth and general claims of \$53,848.60 against Commonwealth and \$1,032.26 against Inland, and that if the reorganization is effected The Middle West Corporation would receive 128,615.4 shares of the common stock of the reorganized company, constituting approximately 38% of such common stock.

(2) A declaration, File No. 34-15, by said Arthur E. Swanson, Kellogg Logsdon and Gary Barthell, constituting a bondholders' protective committee as aforesaid, with respect to solicitation of consents to the proposed plan of reorganization.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 33-3003; Filed, October 12, 1938; 12:40 p. m.]